

# Department of Planning and Development



## **THE WORLD OF ZONING**

A PRESENTATION TO THE  
NEWTON ZONING REFORM GROUP  
MAY 24, 2011

# Origins of Zoning in the U.S.



- Progressive era reform emanating from industrial cities
- New York lead the way in 1916
- Boston has its own enabling legislation
- Standard State Zoning Enabling Act drafted by Hoover's Commerce Department in 1924
- Adopted by many states to enable towns to “zone” land
- Authority for zoning comes from the “police power”
  - *“The capacity of the states to regulate behavior and enforce order within their territory for the betterment of the general welfare, morals, health, and safety of their inhabitants.”*



# Evolving Land Use Drivers



Over the years zoning practice has evolved in response to the increasing complexity and importance of real-estate in the American economy:

Some of the driving forces have included:

- The enormous and growing real estate market
- Tax limits and over-zoning for commercial revenue
- Transportation systems and automobile dependence
- Worsening housing affordability
- NIMBYism and politics at every step of development

# Failed Assumptions of Euclidean Zoning



Looking back, it is clear from the perspective of modern urban planning that many of the original assumptions behind zoning have been proven false (from Don Elliott's *A Better Way to Zone*):

- “A few simple rules will do it”
- “Separate the uses”
- “Greenfield standards are better”
- “Variances and special permits will be rare”
- “Nonconformities will go away”
- “Zoning rules need to be static”
- “Zoning is a technical matter”

# The Evolving World of Zoning Practice

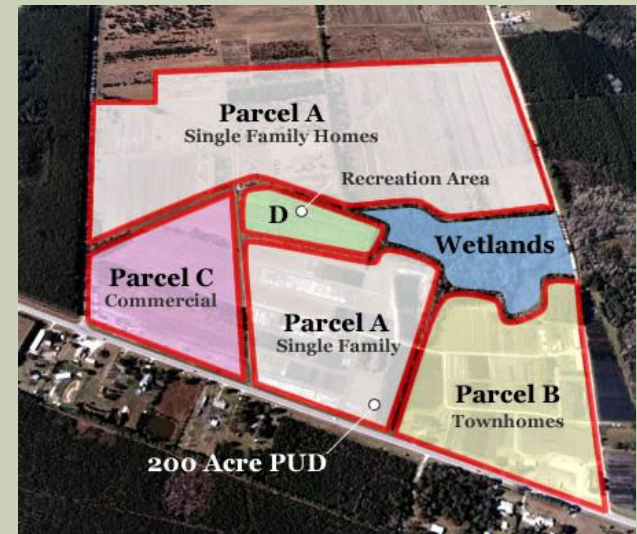


- In addition to traditional “Euclidean zoning” other alternative approaches to zoning have grown over the past decades:
  - Negotiated Zoning, most notably the Planned Unit Development
  - Performance Zoning, minimizing actual impacts, not proscribing how
  - Form-Based Zoning, emphasizing building form over use
  - Incentive Zoning, bonuses for specific public benefits
- Most cities and towns use a mixture of these approaches, creating what is in effect a *hybrid* system
- Many communities are taking advantages of new thinking in zoning practice to improve development in their communities
- The challenge: flexibility vs. predictability

# Negotiated Zoning



- *“Here are some guidelines, let’s negotiate.”*
- City and Developer negotiate the zoning requirements that will govern the project (“contract zoning”)
- Most common type is the Planned Unit Development (PUD)
  - PUD’s are allowed by special permit in MA
- Other approaches are possible
  - PMBD
  - Wells Avenue
- Cities like them because they can negotiate for public benefits
  - Must identify nexus; avoid violating due process or equal protection
- Difficult to change for evolving land-use needs



# Performance Zoning



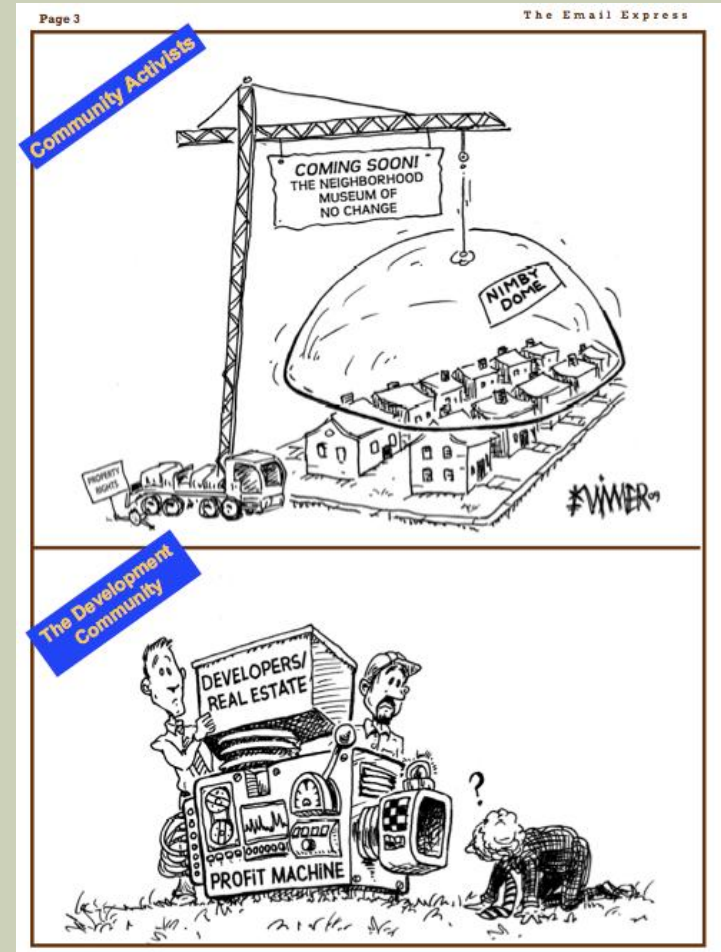
- “Set limits for unacceptable impacts and let developer figure out the best way to meet them.”
- Zoning is about preventing bad impacts on neighbors
- Regulate the “performance” not the form
  - e.g. regulate smoke, glare, noise, etc. rather than require mandatory setbacks for “industrial” uses



# Performance Zoning



- Examples of performance zoning:
  - Newton: averaging front setbacks from adjacent lots, light glare rules, or in the wireless ordinance
  - A points system from menu for mitigations for new development
- But—performance can be hard to predict and measure
- Zoning isn't just about impacts, but about predictability

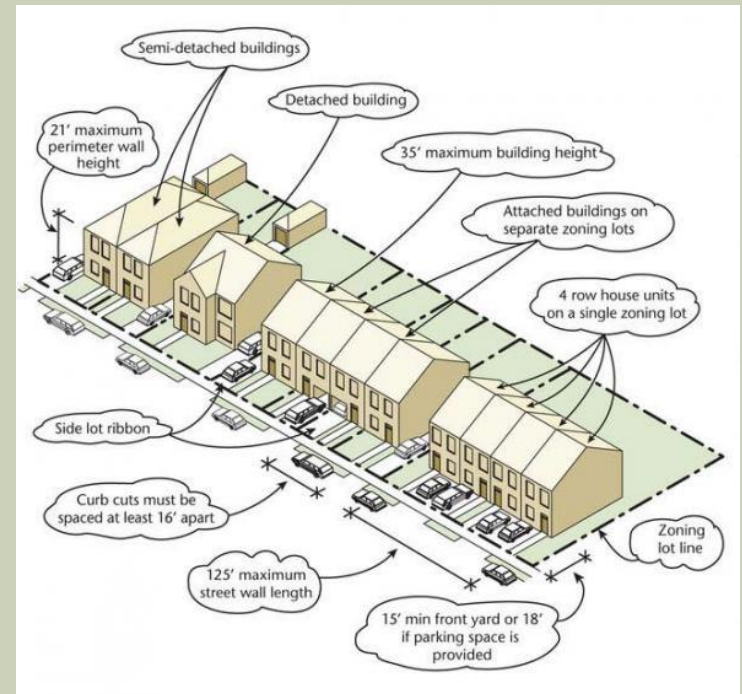




# Form Based Zoning



- *“Regulate the building’s location, size, and shape, not the use within it.”*
- “Form” has long been regulated by zoning ordinances
  - Includes height, setbacks, step-backs, FAR, etc...
  - Aims to show “shoulds” not “shouldn’ts”
- In response to sprawl and urban blight, the New Urbanist movement began in the 1980’s



# New Urbanism



- The New Urbanists argue for
  - Learning from how successful places have been built
  - Emphasized building form without use restrictions
  - Also referred to as Traditional Neighborhood Developments
- Now synonymous with “form-based code”

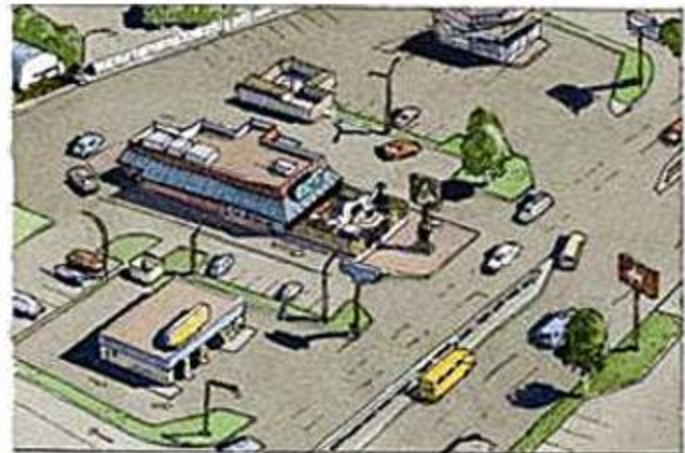




# The New Urbanists' "SmartCode™"



Conventional Suburban Development



Conventional Suburban Development



SmartCode



SmartCode

# SmartCode™ Transects







### BUILDING HEIGHT

Principal Building	2 stories min./35' max
Outbuilding	20'-0" max.

### BUILDING LOCATION

Edgeyard	permitted
Sideryard	permitted
Rearyard	permitted
Courtyard	not permitted

### SETBACKS - PRINCIPAL BUILDING

(g1) Front Setback Principal	6 ft. min. 18 ft. max
(g2) Front Setback Secondary	6 ft. min. 18 ft. max
(g3) Side Setback	0 ft. min.
(g4) Rear Setback	5 ft. min.*
Frontage Buildout	60% min at setback

### SETBACKS - OUTBUILDING

(h1) Front Setback	20 ft. min.+bldg. setback
(h2) Side Setback	3ft at corner
(h3) Rear Setback	3 ft. min

### PRIVATE FRONTAGES\*\*

Common Lawn	not permitted
Porch & Fence	permitted
Terrace or Light Court	permitted
Forecourt	permitted
Stoop	permitted
Shopfront & Awning	permitted
Gallery	permitted
Arcade	not permitted

\*or 15 ft. from center line of alley

\*\*N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums

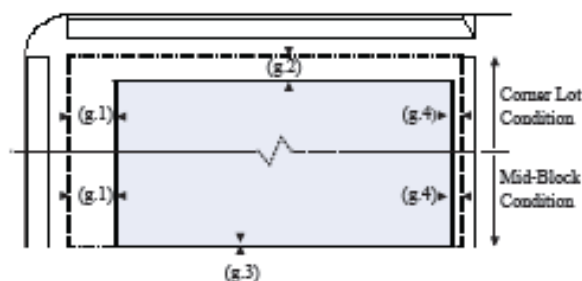
### BUILDING HEIGHT

1. Building height shall be measured in number of feet.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 25 ft.
3. Buildings shall have an Expression Line on the exterior facade at the top of the 2nd story level.



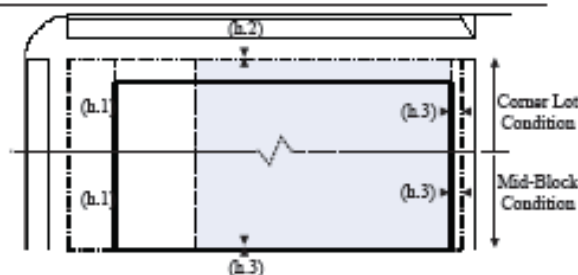
### SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of principal buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the principal frontage to the minimum specified width in the table.



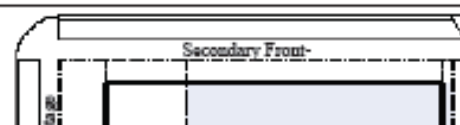
### SETBACKS - OUTBUILDING

1. The elevations of the outbuilding shall be distanced from the lot lines as shown.



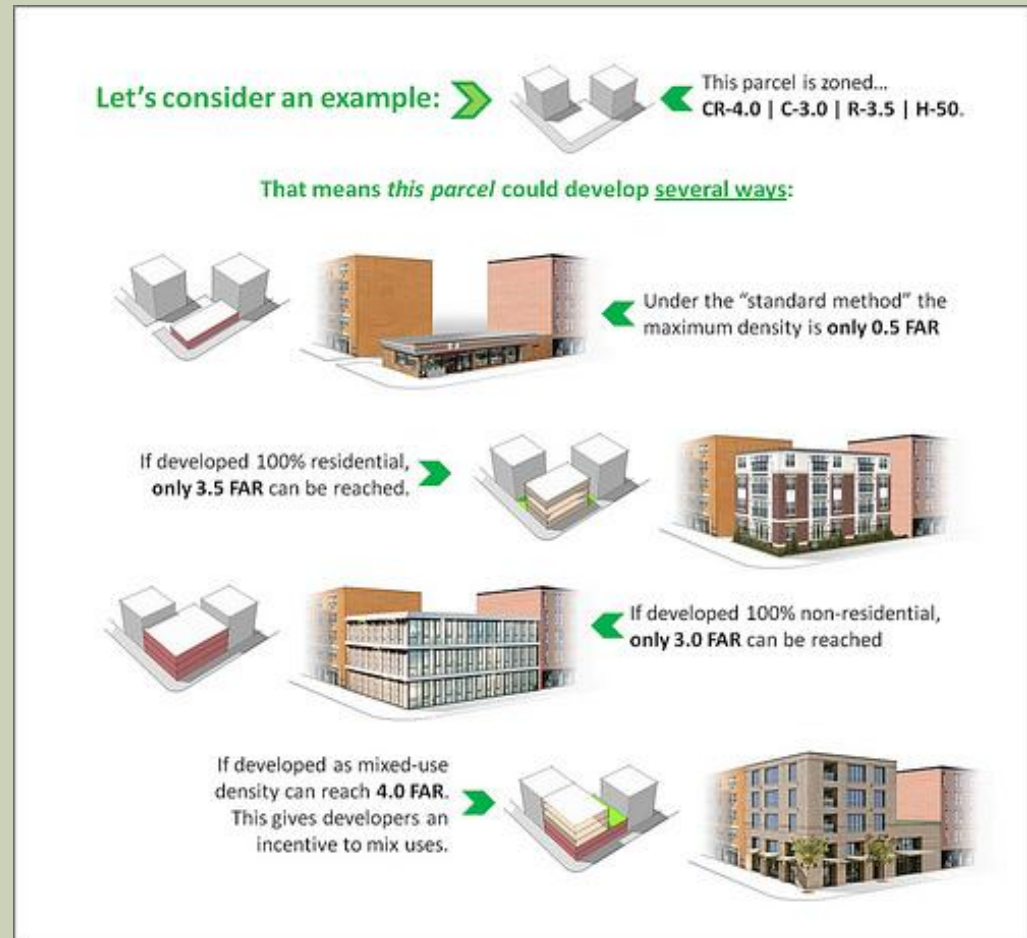
### PARKING PLACE-MENT

Covered and uncovered parking spaces and unces may be provided within the 3rd layer.



# Incentive Based Zoning

- Incentive provisions written in advance
- Developers receive a density bonus...
  - FAR, height/stories, units, etc.
- in exchange for a specific public benefit:
  - Public space, affordable housing, mixed uses, etc.
- Incentives have to respond to what development is financially possible

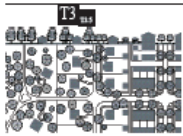


# Creating Hybrid Codes



- Example of Hybrid Code reform from Hamden, CT
  - Integrating Transect Zones with existing residential zones
  - Adding “form-based” controls to “use tables”

## FORM-BASED CODE GRAPHICS - T3 & T3.5



BUILDING HEIGHT	
Principal Building	35'-0" max.
Outbuilding	20'-0" max.

BUILDING LOCATION: SEE TABLE 3.5

### SETBACKS - PRINCIPAL BUILDING

(a.1) Front Setback Principal	124 ft. min.
(a.2) Front Setback Secondary	12 ft. min.
(a.3) Side Setback	12 ft. min.
(a.4) Rear Setback	12 ft. min.
Frontage Buildout	40% min. at front lot line

### SETBACKS - OUTBUILDING

(b.1) Front Setback	20 ft. min. + bldg setback
(b.2) Side Setback	13 ft.
(b.3) Rear Setback*	13 ft. min.*

PRIVATE FRONTAGES: SEE TABLE 3.5

\*or 15 ft. from center line of alley

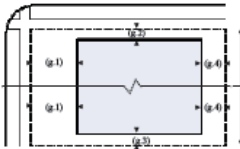
### BUILDING HEIGHT

- Building height shall be measured to number of feet.
- Roofline may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor commercial section which must be a maximum of 11 feet with a maximum of 7 feet.
- Where existing buildings are typically more than one story tall or where the usable floor area is at least 1,000 sq. feet, structures shall be a minimum of three stories.



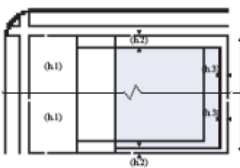
### SETBACKS - PRINCIPAL BLDG

- The facade and elevation of principal buildings shall be setback from the lot lines as shown.
- Facade shall be built along the principal frontage to the minimum specified width in the table.

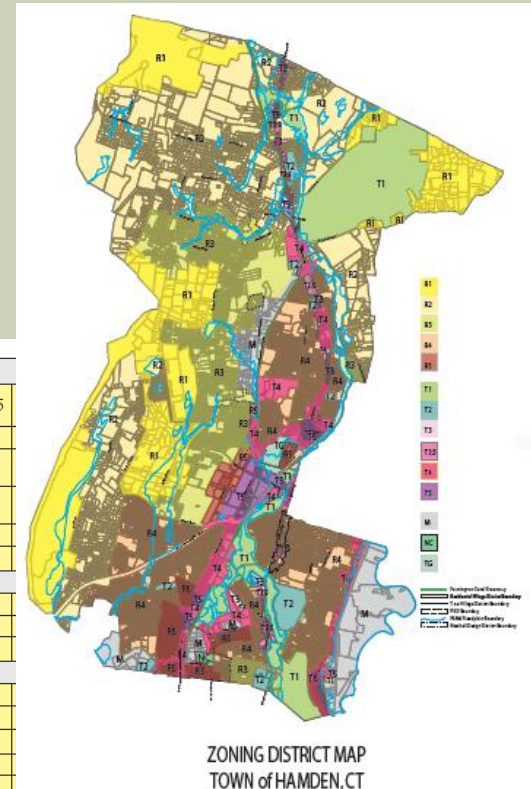


### SETBACKS - OUTBUILDING

- The elevation of the outbuilding shall be setback from the lot lines as shown.



USES	R1	R2	R3	R4	R5	T1	T2	T3	T3.5
Building	P	P	P	P	P	P	P	P	P
Drive-Through Food									
Drive-Through Service									SP
Establishment <sup>c</sup>									
Farm	S	S	S	S	S		S		
Garden	S	S	S	S	S		S	S	S
n	P	P	P	P	P		P	P	
Care									
ing Facility									
Grooming <sup>a</sup>								S <sup>#</sup>	S
Keeping of Animals	P	P	P	P	P		S		
Keeping of Hens <sup>b</sup>	P	P	P	P	P			P	P
Kennel	SP	SP					SP	SP	
Stable	SP	SP					SP		



ZONING DISTRICT MAP  
TOWN of HAMDEN, CT

# Summary



- Land uses continue to change and evolve
- Existing zoning does not achieve new land use goals
- New goals include: smart growth, lowering environmental impacts, improving fiscal health, and creating walkable, mixed use centers
- Innovations in zoning practice:
  - Negotiated Zoning, negotiate each development's rules individually
  - Performance Zoning, minimizing actual impacts, not proscribing how
  - Form-Based Zoning, emphasizing building form over use
  - Incentive Zoning, bonuses for specific public benefits
- Modern hybrid codes embrace components from each approach